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SUBJECT: Fiji's First Comprehensive Environmental Law Comes into Effect

¶1. Summary: The Environment Management Act of 2005 and the subsequent regulations of 2007 have come into effect from January 1, 2009. This landmark measure is the first comprehensive environmental law in Fiji's history. Businesses generating waste or pollution are now required to obtain a permit from the Environment Department. In addition, most new development proposals must now follow an Environmental Impact Assessment (EIA) process. The far-reaching Act entails hefty fines. Although officials at the Department of Environment are convinced that all facilities will comply, it remains to be seen if the law can be effectively and impartially enforced. End Summary.

¶2. The Fijian Parliament enacted the Environment Management Act (EMA) in 2005 for the protection of natural resources and for the control and management of development, for waste management and pollution control, and for the establishment of a National Environment Council and related matters. The interim cabinet endorsed implementing regulations--the Environment Management (Environment Impact Assessment Process) Regulations 2007 and The Environment Management (Waste Disposal and Recycling) Regulations 2007--in December 2007, but the Act did not come into full effect until January 1, 2009. This was because of a one-year grace period designed to allow commercial facilities and industries to comply with its requirements. Now that it is in effect, the EMA carries high expectations and places a number of substantial administrative requirements on existing organs of government, in particular the Department of Environment.

¶3. The EMA creates a statutory body, the National Environment Council, to ensure that its overall goals are met. Among its important functions, the Council is to ensure that the government complies with its international environmental commitments. (Also, according to the Act, the Council is supposed to report to Parliament annually on its activities, although Fiji has been without a Parliament since the December 2006 military coup.)

¶4. The Department of Environment will administer the Act. Within the Department, the EMA establishes three main units to carry out those elements of the Act reflected in their names: the Environment Impact Assessment Unit; the Resource Management Unit; and the Waste Management and Pollution Control Unit. In addition, the EMA requires a "National State of the Environment Report" to be produced every five years. (The only previous State of the Environment Report for Fiji was done in 1992.)

¶5. The EMA prohibits any commercial or industrial facility from discharging any waste or pollutant into the environment or handling or storing hazardous materials without a permit. It gives the Waste

and Pollution Control Administrator (WPC) power to issue permits, monitor discharges and issue stop orders to prevent illegal or excessive discharges. It also sets out the framework for the EIA process that must be applied to most proposals for development activities before they can be approved and makes it an offence to undertake a development activity without an approved EIA. A fine of up to \$750,000 Fiji dollars (approximately US\$420,000) can be imposed for violating this provision.

¶6. The fines for pollution offences are up to \$250,000 Fiji dollars (approximately US\$140,000) for first time offenders and \$750,000 Fiji dollars for subsequent offenses. Creating "a pollution incident" with willful or reckless disregard carries a maximum fine of \$1,000,000 Fiji dollars for individuals, while companies can be fined up to five times that amount. The EMA also provides for terms of imprisonment of up to 10 years. According to the Department of Environment, the high fines are intended to be deterrents.

¶7. Comment: On paper, the EMA gives the Fiji Department of Environment sweeping authorities, but whether the Department can effectively and impartially enforce this law will have to be seen. Although there are plans to increase staffing, the Department currently has a fulltime staff of four. End Comment.

To access the EMA and implementing regulations, please go to [http://www.environment.gov.fj/environment\\_02.htm](http://www.environment.gov.fj/environment_02.htm).

McGann